IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Ram Niwas @ Ram Prasad Vs. State of Rajasthan
(S.B. CRIMINAL APPEAL NO.1499/2002)

S. B. Criminal Appeal under Sec.374 (2) Cr.P.C. against the judgment dated 13-9-2002 in Sessions Case No.143/2001 passed by Sh. Ramesh Chand Meena, RHJS, Additional Sessions Judge No.2 (Fast Track) Kota.

Date of Judgment: January 04, 2007.

PRESENT
HON'BLE MR. JUSTICE SHIV KUMAR SHARMA

Mr. S.P.Poshwal, Amicus Curiae, for the appellant.

Mr. M.L.Goyal, Public Prosecutor for the State.

BY THE COURT:

Ram Niwas @ Ram Prasad, the appellant herein, was placed on trial before Learned Additional Sessions Judge No.2 (Fast Track) Kota, who vide judgment dated September 13, 2002 convicted and sentenced him as under:-

U/s.328 IPC:

To suffer rigorous imprisonment for seven years and fine of Rs.1000/-, in default to further suffer rigorous imprisonment for one month.

U/s.379 IPC:

To suffer rigorous imprisonment for three years.

The substantive sentences were ordered to run concurrently.

2. As per prosecution story SHO Police Station GRP Kota recorded parcha bayan (Ex.P-7) of Laddu Lal on February 24, 2001 wherein he stated that on February 22, 2001 he proceeded from Budhpura mine for his village and reached at railway station. Around 6.30 PM he purchased the

ticket for travel from Kota to Indragarh in Agrafort train. He was having Rs.700/- in his inner pocket. At that place he met a person of dark complexion having moustache on his face aged 30-35 years, Madan Lal and Ram Prasad also reached there. The said person accompanied them to platform No.3 from where the train was to go. At the platform they took tea for which the money was paid by said unknown person. Thereafter they came to know that the train will go from platform No.1 and they reached there and boarded in train. The said unknown person also travelled along with them. After the start of the train the said unknown person took out a packet of biscuit from his bag, which were cream-biscuits, thereafter they slept. On regaining their consciousness on February 23, 2002 they found them in hospital at Hindaun City. He stated that his Rs.735/- and ticket of train is missed. Money of Ram Prasad and Madan Lal was also looted. On the basis of parcha bayan a case was registered and investigation commenced. Necessary memos were drawn, statements of witnesses were recorded, the appellant was arrested and on completion of investigation charge sheet was filed. In due course the case came up for trial before the learned Additional Sessions Judge (Fast Track) No.2 Kota. Charges under sections 328 and 379 IPC were framed against the appellant, who denied the charges and claimed trial. The prosecution in support of its case examined as many as 17 witnesses. In the explanation under Sec.313 CrPC, the appellant claimed innocence. No witness in defence was however examined. Learned trial Judge on hearing final submissions convicted and sentenced the appellant as indicated herein above.

3. The contention of learned counsel for the appellant is that no recovery of stolen goods was affected from the appellant. Per contra, learned Public Prosecutor supported the impugned judgment.

4. The prosecution case is founded on the testimony Laddu Lal (Pw.10), Madan Lal (Pw.11) and Ram Prasad (Pw.12). They identified the appellant in court as well as in the Identification Parade conducted in Central Jail Kota in presence of Magistrate Ms.Mudita Bhargava (Pw.14). The victims were treated by Doctors Vinod Kumar (Pw.2), Ram Lal Meena (Pw.3) and Rajendra Sharma (Pw.5) and they prepared the packets from the vomit of victims, which was sent to FSL for examination. Their gastric lavage was examined by the FSL, where vide report (Ex.P-27) the presence of lorazepam drug was found.

5. The appellant failed to show any reason as to why his identification parade which was conducted in presence of magistrate should not be believed and why victims had wrongly identified him.

6. Having closely scanned the material on record, I find that the ocular evidence of the prosecution finds corroboration from the medical evidence. The victims had identified the appellant in the identification parade as well as in court. I am of the view that it is the appellant who committed the crime. The impugned judgment does not suffer from any infirmity and it does not call for any interference.

7. For these reasons, I do not find any merit in the instant appeal and the same stands accordingly dismissed.

(Shiv Kumar Sharma)J.

arn/